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TESTIMONY

Regarding

HB 5102 An Act Requiring the Commissioner of Transportation to Attend Certain Public
Hearings Concerning Railroad Crossings at Grade
Before the
Committee on Transportation

February 18, 2011

I appreciate having the opportunity to testify in support of HB 5102.

For over 70 years there has been a growing recognition particularly at the federal level that highway/railroad at grade crossings are part of the highway system and must be maintained by highway dollars. For many years through programs such as Operation Lifesaver railroads and government agencies have sought, with considerable success, to reduce accidents at grade crossings. Repairing failed crossings will help us all in our efforts to make crossings safe.

In 1935 Justice Brandeis writing for the majority of the U.S. Supreme Court wrote about crossings saying "The railroad has ceased to be the prime instrument of danger and the main cause of grade crossing accidents. It is the railroad which now requires protection from dangers incident to motor transportation"

In 1964 the Interstate Commerce Commission conducted a comprehensive investigation of public safety at highway-rail grade crossings and made a number of important observations including the following:

"One of the basic elements to be considered in this proceeding is the cost of upgrading crossings and the installation of additional grade-crossing protection, and upon whom the cost burden should fall. For practical reasons this cost should be borne by public funds as users of the crossing plus the fact that it is the increasing highway traffic that is the controlling element in accident exposure at these crossings....Insofar as this record is concerned, the consensus supports a conclusion that the major costs of grade separation and protection at rail-highway grade crossings should be borne by the public since the public is the principal recipient of the benefits derived from grade-crossing protection.

...In the past it was the railroad's responsibility for protection of the public at grade crossings. This responsibility has now shifted. Now it is the highway, not the railroad,

and the motor vehicle, not the train, which creates the hazard and must be primarily responsible for its removal. Railroads were in operation before the problem presented itself and if the increasing seriousness is a result of the increasing development of highways for public, why should not the cost of grade-crossing protection be assessed to the public."

For many years the Federal Highway Administration has provided funds through targeted programs such as the so called Section 130 program designed to build and rebuild grade crossings. More recently they have provided even more latitude to states to use highway maintenance money for crossing repair.

If you were to build a new grade crossing today with a new road surface, signals, gates and lights and run 200 million tons of rail freight over it but not plow it, salt it, dump highway water on it or run heavy trucks over it, the crossing would remain in very good shape for many many years. It is the plows, salt and ice melting material, highway drainage and heavy trucks that are damaging and destroying crossings including rails and ties at an alarming pace. To make it worse the salt is also causing the crossing signals to fail. The parties doing the damage must take responsibility for the repairs.

We appreciate all the efforts this committee has made over the past years to address the problems of grade crossings. We support HB 5102 because it is another step to forging what we hope will be a productive partnership between railroads and the DOT to address the problems of failed crossings throughout Connecticut.

Thank you!